

# **EXHIBIT B**

**10/769,176**

**Applicant: David Kammer**

**EXHIBIT B**

PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)  Total Number of Pages in This Submission: _____	Application Number	10/769,176
	Filing Date	January 29, 2004
	First Named Inventor	David KAMMER
	Art Unit	2682
	Examiner Name	Millford, Marceau
	Attorney Docket Number	3195.PALM.PSI.CON

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input checked="" type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers  <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks Return postcard.		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Berry & Associates P.C.		
Signature	/Reena Kuyper/		
Printed name	Reena Kuyper		
Date	September 14, 2006	Reg. No.	33,830

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature	/Reena Kuyper/		
Typed or printed name	Reena Kuyper	Date	September 14, 2006

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PTO/SB/17 (01-06)

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Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

**FEE TRANSMITTAL**  
**For FY 2006**☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 1020

**Complete if Known**

Application Number	10/769,176
Filing Date	January 29, 2004
First Named Inventor	David KAMMER
Examiner Name	Milford, Marceau
Art Unit	2682
Attorney Docket No.	3195.PALM.PSI.CON

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OCT 17 2006**METHOD OF PAYMENT (check all that apply)**

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_

☒ Deposit Account Deposit Account Number: 50-3102 Deposit Account Name: Berry & Associates P.C.

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayments of fee(s) ☒ Credit any overpayments

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**FEE CALCULATION (All the fees below are due upon filing or may be subject to a surcharge.)****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

**2. EXCESS CLAIM FEES**

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

  

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
- 20 or HP =	x	=	
HP = highest number of total claims paid for, if greater than 20.			
Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
- 3 or HP =	x	=	
HP = highest number of independent claims paid for, if greater than 3.			

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 =	/ 50 =	(round up to a whole number) x	=	

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Petition for Extension of Time (\$1020)

1020

**SUBMITTED BY**

Signature	/Reena Kuyper/	Registration No. (Attorney/Agent)	33,830	Telephone (310) 247-2860
Name (Print/Type)	Reena Kuyper			Date September 14, 2006

This collection of information is required by 37 CFR 1.133. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/SB/22 (12-04)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)</b>		Docket Number (Optional)																									
<b>FY 2005</b>		3195.PALM.PSI.CON																									
(Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).)																											
Application Number 10/769,176		Filed January 29, 2004																									
<b>For EFFICIENT SERVICE REGISTRATION FOR LEGACY APPLICATIONS IN A BLUETOOTH</b>																											
Art Unit 2682		Examiner Milford, Marceau																									
<p>This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.</p> <p>The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 40%;"></th> <th style="width: 20%; text-align: center;">Fee</th> <th style="width: 20%; text-align: center;">Small Entity Fee</th> <th style="width: 20%;"></th> </tr> </thead> <tbody> <tr> <td><input type="checkbox"/> One month (37 CFR 1.17(a)(1))</td> <td style="text-align: center;">\$120</td> <td style="text-align: center;">\$60</td> <td style="text-align: center;">\$ _____</td> </tr> <tr> <td><input type="checkbox"/> Two months (37 CFR 1.17(a)(2))</td> <td style="text-align: center;">\$450</td> <td style="text-align: center;">\$225</td> <td style="text-align: center;">\$ _____</td> </tr> <tr> <td><input checked="" type="checkbox"/> Three months (37 CFR 1.17(a)(3))</td> <td style="text-align: center;">\$1020</td> <td style="text-align: center;">\$510</td> <td style="text-align: center;">\$ 1020</td> </tr> <tr> <td><input type="checkbox"/> Four months (37 CFR 1.17(a)(4))</td> <td style="text-align: center;">\$1590</td> <td style="text-align: center;">\$795</td> <td style="text-align: center;">\$ _____</td> </tr> <tr> <td><input type="checkbox"/> Five months (37 CFR 1.17(a)(5))</td> <td style="text-align: center;">\$2160</td> <td style="text-align: center;">\$1080</td> <td style="text-align: center;">\$ _____</td> </tr> </tbody> </table> <p><input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27.</p> <p><input type="checkbox"/> A check in the amount of the fee is enclosed.</p> <p><input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.</p> <p><input type="checkbox"/> The Director has already been authorized to charge fees in this application to a Deposit Account.</p> <p><input checked="" type="checkbox"/> The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number <u>503102</u>. I have enclosed a duplicate copy of this sheet.</p> <p><b>WARNING:</b> Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</p> <p>I am the <input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration Number <u>33,830</u></p> <p><input type="checkbox"/> attorney or agent under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p> <p style="text-align: center;">_____ /Reena Kuyper/ Signature</p> <p style="text-align: center;">_____ Reena Kuyper Typed or printed name</p> <p style="text-align: center;">_____ September 14, 2006 Date</p> <p style="text-align: center;">_____ (310) 247-2860 Telephone Number</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.</p> <p><input checked="" type="checkbox"/> Total of <u>1</u> forms are submitted.</p>					Fee	Small Entity Fee		<input type="checkbox"/> One month (37 CFR 1.17(a)(1))	\$120	\$60	\$ _____	<input type="checkbox"/> Two months (37 CFR 1.17(a)(2))	\$450	\$225	\$ _____	<input checked="" type="checkbox"/> Three months (37 CFR 1.17(a)(3))	\$1020	\$510	\$ 1020	<input type="checkbox"/> Four months (37 CFR 1.17(a)(4))	\$1590	\$795	\$ _____	<input type="checkbox"/> Five months (37 CFR 1.17(a)(5))	\$2160	\$1080	\$ _____
	Fee	Small Entity Fee																									
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<input type="checkbox"/> Five months (37 CFR 1.17(a)(5))	\$2160	\$1080	\$ _____																								

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PAGE 10/21 \* RCVD AT 10/17/2006 3:18:34 AM [Eastern Daylight Time] \* SVR:USPTO-EFXRF-2/14 \* DNIS:2738300 \* CSID:310 247 2864 \* DURATION (mm:ss):05:38

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## EXHIBIT B

PTO/SB/26 (09-06)

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<b>TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION OVER A "PRIOR" PATENT</b>		Docket Number (Optional) 3195.PALM.PSI.CON
<p>In re Application of: David Kammer</p> <p>Application No.: 10/769,178</p> <p>Filed: January 29, 2004</p> <p>For: EFFICIENT SERVICE REGISTRATION FOR LEGACY APPLICATIONS IN A BLUETOOTH ENVIRONMENT</p>		
<p>The owner*, <u>PalmSource, Inc.</u>, of <u>100</u> percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. <u>6,826,387</u> as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.</p> <p>In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:</p> <ul style="list-style-type: none"> <li>expires for failure to pay a maintenance fee;</li> <li>is held unenforceable;</li> <li>is found invalid by a court of competent jurisdiction;</li> <li>is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;</li> <li>has all claims canceled by a reexamination certificate;</li> <li>is reissued; or</li> <li>is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.</li> </ul> <p>Check either box 1 or 2 below, if appropriate.</p> <p>1. <input type="checkbox"/> For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.</p> <p>I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.</p> <p>2. <input checked="" type="checkbox"/> The undersigned is an attorney or agent of record. Reg. No. <u>33,830</u></p>		
<p><u>/Reena Kuyper/</u> Signature</p>		<p><u>September 14, 2006</u> Date</p>
<p><u>Reena Kuyper</u> Typed or printed name</p>		<p><u>(310) 247-2860</u> Telephone Number</p>
<p><input checked="" type="checkbox"/> Terminal disclaimer fee under 37 CFR 1.20(d) included.</p>		
<p><b>WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</b></p>		
<p>*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this certification. See MPEP § 324.</p>		

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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<b>In re the Application of:</b>	) <b>Customer No.:</b>	49,637
David KAMMER	) <b>Confirmation No.:</b>	7805
<b>Serial No.:</b> 10/769,176	) <b>Group Art Unit:</b>	2682
<b>Filed:</b> January 29, 2004	) <b>Examiner:</b>	Milord, Marceau
<b>For:</b> EFFICIENT SERVICE	) <b>Attorney Docket No.:</b>	3195.PALM.PSI.CON
REGISTRATION FOR LEGACY	)	
APPLICATIONS IN A	)	
BLUETOOTH ENVIRONMENT	) <b>Office Action dated:</b>	March 14, 2006

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**AMENDMENT AND RESPONSE TO OFFICE ACTION**

Dear Sir:

Prior to examination of this application and in response to the Office Action dated March 14, 2006, please amend the application as shown herein.

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 6 of this paper.

**CERTIFICATE OF MAILING UNDER 37 CFR §1.8**

I hereby certify that this document (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

September 14, 2006  
Date

/Reena Kuyper/  
Reena Kuyper

**EXHIBIT B** Page 1 of 8

Application No.:  
Reply to Office Action of:

10/769,176  
March 14, 2006

## EXHIBIT B

### IN THE CLAIMS:

A complete set of the claims is included below, reflecting added subject matter (*underlining*) and deleted subject matter (*strikethrough*), as well as the current status of each claim. This listing of claims will replace all prior versions, and listings, of claims in the application:

1. (Original) In a wireless device having a transceiver, a method for providing a service record for an application running on a virtual serial port, said method comprising the steps of:
  - a) executing said application, wherein said application is a legacy application operable to communicate with a peripheral device over a serial connection;
  - b) opening a virtual serial port for said application, wherein said virtual serial port is opened by a virtual serial port driver and wherein said virtual serial port emulates said serial connection;
  - c) creating a service record corresponding to said application; and
  - d) registering in said service record a service name identifying said application, wherein said service name is provided by said virtual serial port driver.
2. (Original) The method as recited in Claim 1 wherein said wireless device is a Bluetooth-enabled device.
3. (Original) The method as recited in Claim 2 wherein said service record is a Service Discovery Protocol service record.

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10/769,176  
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4. (Original) The method as recited in Claim 2 wherein said virtual serial port driver is substantially compliant with the RFCOMM protocol and comprises a port emulation entity.

5. (Original) The method as recited in Claim 4 wherein said step b) comprises the step of:

bl) selecting a RFCOMM channel number for said virtual serial port.

6. (Original) The method as recited in Claim 5 wherein said step d) comprises the step of:

including said RFCOMM channel number in said service name.

7. (Original) The method as recited in Claim 1 wherein said step d) comprises the step of:

deriving said service name from a name for said application.

8. (Original) The method as recited in Claim 1 wherein said step d) comprises the step of:

using a default name for said service name.

9. (Original) A wireless device comprising:  
a bus;

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a wireless transceiver unit coupled to said bus and for communicating with other wireless devices;

a processor coupled to said bus; and

a memory unit coupled to said bus and comprising processor instructions for performing a method for providing a service record for an application running on a virtual serial port, said method comprising the steps of:

a) executing said application, wherein said application is a legacy application operable to communicate with a peripheral device over a serial connector;

b) opening a virtual serial port for said application, wherein said virtual serial port is opened by a virtual serial port driver and wherein said virtual serial port emulates said serial connector;

c) creating a service record corresponding to said application;  
and

d) registering in said service record a service name identifying said application, wherein said service name is provided by said virtual serial port driver.

10. (Original) The wireless device of Claim 9 wherein said wireless device and said other wireless devices are Bluetooth-enabled devices.

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11. (Original) The wireless device of Claim 10 wherein said service record is a Service Discovery Protocol service record.

12. (Original) The wireless device of Claim 10 wherein said virtual serial port driver is substantially compliant with the RFCOMM protocol and comprises a port emulation entity.

13 (Original) The wireless device of Claim 12 wherein said step b) of said method comprises the step of:

b1) selecting a RFCOMM channel number for said virtual serial port.

14. (Original) The wireless device of Claim 13 wherein said service name comprises said RFCOMM channel number.

15. (Original) The wireless device of Claim 9 wherein said service name is derived from a name for said application.

16. (Original) The wireless device of Claim 9 wherein said service name is a default name.

17-24. (Canceled)

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Application No.:  
Reply to Office Action of:

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March 14, 2006

## EXHIBIT B

### REMARKS

This amendment is responsive to the Office Action dated March 14, 2006. In the office action the Examiner rejected claims 1 and 9 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 of U.S. Patent No. 6,826,387 (application serial no. 09/728,025) to Kammer. The Examiner acknowledges that the conflicting claims are not identical, but takes the position that the claims presented here are not patentably distinct from those that issued in U.S. Patent No. 6,826,387.

In particular, with respect to the claims presented here, the Examiner takes the position that steps are shown in the prior patent to Kammer (U.S. Patent No. 6,826,387). Although the Applicant believes that the claims presented here are different, to expedite allowance of this application, he is submitting a terminal disclaimer. This terminal disclaimer is submitted to overcome the obviousness type double patenting rejection. With this terminal disclaimer, the owner or assignee with 100 percent interest in this application disclaims (under the conditions indicated in the terminal disclaimer) the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term of prior patent 6,826,387. The Examiner is respectfully requested to withdraw his rejection of the claims pending in this application and to allow them.

### *35 U.S.C. § 103 Rejections*

The Examiner has rejected claims 1-16 under 35 U.S.C. §103(a) as being unpatentable over Singhal et al. (U.S. Patent No. 6,633,761) in view of Shuster et al. (U.S. Patent No. 6,633,761). The Examiner takes the position that Singhal et al., discloses all the claimed elements other than the feature of a transceiver comprising the step of executing an application, wherein the application is a legacy application operable to communicate with a peripheral device over a serial connection. The Examiner relies on Schuster et al., for filling that void, taking the position that Schuster et al., is from the same field of endeavor. Applicant respectfully submits that there is no suggestion in Singhal et al. that invites a combination in the manner that the Examiner suggests. Applicant respectfully traverses that it would have been obvious to combine the references as the Examiner suggests and urges the Examiner to reconsider the rejections in view of the following reasoning set forth below.

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## EXHIBIT B

For rejections under 35 U.S.C. Section 103, the establishment of a *prima facie* case of obviousness requires that all the claim limitations must be taught or suggested by the prior art. MPEP § 2143.03 The establishment of a *prima facie* case of obviousness requires that the claimed combination cannot change the principle of operation of the primary reference or render the reference inoperable for its intended purpose. MPEP § 2143.03

To resolve the issue of patentability based on obviousness, the Examiner must not only look to the teaching in the asserted references that meets the claimed limitations, but must also point to the motivation in the asserted references that invites a combination in the event one reference is devoid of a particular teaching. Simply using the benefit of hindsight in combining references is improper. *In re Lee*, 277 F.3d 1338, 1342-45 (Fed. Cir. 2002); *In re Deminski*, 796 F.2d 436, 442 (Fed. Cir. 1986). Rather, obviousness is to be determined from the vantage point of a hypothetical person having ordinary skill in the art to which the patent pertains. See 35 U.S.C. § 103(a). The legal construct also presumes that all prior art references in the field of the invention are available to this hypothetical skilled artisan. *In re Carlson*, 983 F.2d 1032, 1038, 25 USPQ 2d 1207, 1211 (Fed. Cir. 1993).

An examiner may often find every element of a claimed invention in the prior art. "Virtually all [inventions] are combinations of old elements." *Environmental Designs, Ltd. v. Union Oil Co.*, 713 F.2d 693, 698, 218 USPQ 865, 870 (Fed.Cir. 1983); see also *Richel, Inc. v. Sunspool Corp.*, 714 F.2d 1573, 1579-80, 219 USPQ 8, 12 (Fed.Cir. 1983). If identification of each claimed element in the prior art were sufficient to negate patentability, very few patents would ever issue. Furthermore, rejecting patents solely by finding prior art corollaries for the claimed elements would permit an examiner to use the claimed invention itself as a blueprint for piecing together elements in the prior art to defeat the patentability of the claimed invention. Such an approach would be "an illogical and inappropriate process by which to determine patentability." *Sensonics, Inc. v. Aerosonic Corp.*, 81 F.3d 1566, 1570, 38 U.S.P.Q.2d 1551, 1554 (Fed.Cir.1996). In other words, the examiner must show reasons that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed.

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### Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding rejections, and that they be withdrawn. The Examiner is invited to telephone the undersigned representative if an interview might expedite allowance of this application.

Respectfully submitted,  
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